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In re Application of	:	
Gellrich et al.	:	
Application No.: 10/566,196	:	
PCT No.: PCT/EP04/07186	:	
Int. Filing Date: 02 July 2004	:	DECISION
Priority Date: 01 August 2003	:	
Attorney Docket No.: LO29-030	:	
For: Optical Imaging Device Having	:	
At Least One System Diaphragm	:	

This is in response to the submission under 37 CFR 1.497(d) filed on 12 December 2007.

### DISCUSSION

In a Decision mailed on 25 June 2007, the declaration filed on 25 July 2006 was not accepted, without prejudice, because

it names an inventor, Martin E. Humphries, who is not nominated in the published international application. Review of the application file reveals no indication that he was added during the international phase. As such, it appears that a submission under 37 CFR 1.497(d) may be appropriate.

And also because

it appears to have been compiled from individual sheets signed by the inventors (as opposed to presenting complete copies of each declaration as signed).

In response, applicant has filed a submission under 37 CFR 1.497(d), including a new declaration. A declaration filed under 37 CFR 1.497 (d) must be by the actual inventor or inventors as required under 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47. The declaration must be accompanied by (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part, (2) the processing fee set forth in 37 CFR 1.17; and (3) if an assignment has been executed by any of the original named inventors, the written consent of the assignee (*See* 37 CFR 3.73(b)). *See* Section 201.03 of the Manual of Patent Examining Procedure (M.P.E.P.).

Regarding requirement (1), applicants have provided a statement by Mr. Humphries that "the omission of the inventive entity in the international patent application, PCT/EP2004/007186, filed July 2, 2004, occurred without any deceptive intention on my part." The meaning of this statement is unclear, though it appears that Mr. Humphries may have intended to refer to "the omission of my name from the inventive entity named..." Clarification is required.

Regarding requirement (2), the required processing fee has been paid.

Regarding requirement (3), applicants have submitted acceptable evidence of the consent of assignee Carl Zeiss SMT AG to the addition of Martin E. Humphries as a joint inventor.

It is also noted that the declaration filed on 12 December 2007 includes un-initialed alterations to the data pertaining to inventors Huber and Szekely. In view of these deficiencies, it would not be appropriate to accept the declaration.

**DECISION**

The declaration is **NOT ACCEPTED** under 37 CFR 1.497(d), without prejudice.

Any request for reconsideration of this decision must be filed within **TWO (2)** **MONTHS** of the mailing date of this decision. Extensions of time under 37 CFR 1.136(a) are available. Failure to timely reply will result in **ABANDONMENT**.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, P.O. Box 1450, Mail Stop PCT, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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